

## **Massachusetts Municipal-Industry Wireless Collaborative Mediation Pilot Program**

### **MEDIATION AGREEMENT FORM**

The undersigned parties agree to participate in mediation, as specified in the terms and provisions below for the purpose of resolving their dispute. This mediation program is voluntary and non-binding. Mediators will adhere to the Model Standards of Conduct for Mediators prepared by a joint committee composed of two delegates each from the American Arbitration Association, the American Bar Association and the Association for Conflict Resolution.

**Voluntary Participation:** The parties understand that participation in this program is voluntary. The mediator is neutral and has no power to decide the outcome of this case. If parties choose to withdraw, they remain bound by the rules of confidentiality and by any fee agreements incurred with respect to this program.

**Confidentiality of Communications:** The parties understand that any discussions that take place during a mediation session are confidential, as provided for in MGL c. 233, s. 23C and other mediation rules. Documents prepared for or during the mediation may be used for settlement purposes only and may not be subpoenaed for, or used in a subsequent hearing or trial. No formal stenographic transcript or minutes will be taken during the mediation.

**Settlement Authority:** The parties agree to be present at the mediation session and to include any other person(s) necessary to reach a settlement. If a party is unable to attend, they may be represented in the mediation session by the principal person(s) authorized to negotiate on their behalf. Any other person(s) needed to achieve an agreement should be available by phone during the mediation.

**Mediator(s):** The parties understand that the mediator provided by OCABR serves at the pleasure of the parties and with their mutual consent. All parties will disclose any possible conflict they may have to ensure the mediator's impartiality. The role of the mediator is to facilitate negotiations and, subject to agreement of the parties, select an appropriate expert based on the needs and specific matters in dispute. The mediator must contact the expert regarding the scheduled mediation session. The mediator will not provide the parties with legal advice or counsel.

**Mediator Fees:** The parties understand that they are responsible for the costs of mediation and that the fees are to be paid directly to the mediator. The fee for service of the mediator will be based on a four-hour time period including preparation, actual mediation session and the preparation of an agreement document or execution of a typed-written, non-binding determination (if parties request this). If the mediator determines that additional mediation time is necessary, the mediator may extend the mediation process with the agreement of the parties. The mediator is authorized to charge an additional per hour fee if the mediation process extends beyond four hours. The additional fee will be shared equally by the parties and paid directly to the mediator.

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**Expert Fees:** Subject to agreement of the parties, the mediator may select an appropriate expert based on the needs and specific matters in dispute. Experts will be compensated directly by the parties, who will share the cost equally.

**Late Cancellation Penalty:** The parties understand that at the time of engaging the mediator, a late fee shall be established and then assessed for postponing or canceling a mediation session. Fees for late cancellations or postponements shall be paid for entirely by the party responsible for such cancellation or postponement, unless the parties otherwise agree. Such late fees shall be paid to the mediator for any cancellation or postponement within 24 hours of the session.

**Nature of Dispute:**

**The Claim or Relief Sought:**

**(Note: If applicable, please submit a copy of motion(s) for stay pending mediation to OCABR)**

**State Property:**

**If the potential for wireless siting exists on any state owned property, OCABR will coordinate with the appropriate agency (i.e. Division of Capital Asset Management, Mass Turnpike Authority and/or Mass Highway Department) for involvement in the mediation process. Please set forth the location of the site and the state agency with control.**

Case Name \_\_\_\_\_

Docket # \_\_\_\_\_

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**Mediator Selected:** \_\_\_\_\_

**Mediation Locale Requested:** \_\_\_\_\_

The undersigned hereby agree to these terms and conditions:

\_\_\_\_\_  
Name of Party

\_\_\_\_\_  
Name of Attorney or Representative

\_\_\_\_\_  
Name of Organization

\_\_\_\_\_  
Name of Firm (if applicable)

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Telephone                      Fax

\_\_\_\_\_  
Telephone                      Fax

\_\_\_\_\_  
Signed

Date: \_\_\_\_\_

Please fax to Daniela Messina, Deputy General Counsel, OCABR at (617) 973-8799

**NOTE: PLEASE MAKE SUFFICIENT COPIES OF ALL ORIGINAL FORMS  
FOR FUTURE USE.**